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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Report of the Office of Internal Oversight Services on the procurement of goods and services through letters of assist

Note by the Secretary-General*

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994 and 54/244 of 23 December 1999, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the procurement of goods and services through letters of assist.

2. The Secretary-General takes note of the findings and concurs with the recommendations made in the report, which will improve the Secretariat's practices and procedures for procurement through letters of assist.

* The present report could not be submitted prior to the deadline because the review had not been concluded at that time.

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Report of the Office of Internal Oversight Services on the procurement of goods and services through letters of assist

Summary

During the period from February to April 2002, the Office of Internal Oversight Services conducted an audit of the procurement of goods and services by the Department of Peacekeeping Operations through the use of letters of assist. The main objectives of the audit were to determine the effectiveness of this procurement method and the Department's compliance with the relevant Financial Regulations and Rules of the United Nations. Of the 274 letters of assist valued at $183 million issued by the Department during the period 2000-2001, the Office of Internal Oversight Services reviewed a sample of 35, with a total value of $71.4 million.

The audit showed that the Procurement Division of the Office of Central Support Services had not yet prepared revised guidelines for administering letters of assist, although such guidelines were expected by March 1998. Further, the Department of Peacekeeping Operations had not drawn up a comprehensive list of goods and services considered to be of a strictly military nature, which are not available through commercial sources. The Office of Internal Oversight Services found that letters of assist sometimes included goods and services that could be procured from commercial sources through competitive bidding. The Department of Peacekeeping Operations Finance Management and Support Service made payments totalling $11.6 million before the relevant letters of assist were completed and/or signed by the providing Government, in contravention of financial rule 110.22, which requires that payments be based on written contracts. The Finance Management and Support Service also processed claims for goods and services that were not supported by letters of assist. In the opinion of the Office of Internal Oversight Services, such claims require review and authorization by the Controller.

The Office of Internal Oversight Services also noted that the criteria used by the Department for selecting Governments to provide the required goods and services were unclear. In the view of the Office of Internal Oversight Services, a competitive selection process is needed to increase transparency and ensure more economical procurement of such goods and services through letters of assist.

The Office of Internal Oversight Services made a number of recommendations for addressing the issues discussed above. In particular, it recommended that the Department of Peacekeeping Operations:

(a) Ensure that letters of assist are expeditiously prepared and submitted for Government signature in order to adequately obligate funds and support payments;

(b) Promulgate, in consultation with the Procurement Division, revised guidelines for letters of assist that: (i) specify the prerequisites for their use; (ii) include procedures for selecting the providing Government; and (iii) require the use of cost-comparison methods;

(c) Discontinue the use of letters of assist for procuring medical supplies and transfer this responsibility to the Procurement Division, except for those supplies which have to be provided under memorandums of understanding with Member States;

(d) Establish, in cooperation with the Procurement Division, a roster of Governments willing to provide goods and services under letters of assist and develop competitive procurement procedures for their award;

(e) Ensure that the issuance of letters of assist is based on adequate cost comparison and analysis of competitive offers obtained from the largest possible number of Member States.

The Office of Internal Oversight Services also recommended that the Controller review and authorize the payment of claims that are not supported by a duly signed letter of assist after obtaining the necessary justification for such claims from the Department of Peacekeeping Operations.

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I. Introduction

1. During the period from February to April 2002, the Office of Internal Oversight Services conducted an audit of the procurement of goods and services by the Department of Peacekeeping Operations using letters of assist. The audit was intended to determine the effectiveness of procurement through the use of letters of assist and whether the Department was complying with relevant Financial Regulations and Rules of the United Nations.* Of the 274 letters of assist valued at $183 million that were issued by the Department of Peacekeeping Operations during the period 2000-2001, the Office of Internal Oversight Services reviewed a sample of 35, with a total value of $71.4 million.

2. According to paragraph 15.01 of the United Nations Procurement Manual, a letter of assist is a contracting document issued by the United Nations authorizing a Government to provide goods or services to a United Nations peacekeeping operation. Letters of assist are to be issued for procuring goods and services that are of a strictly military nature or pattern, or when such goods and services cannot be procured commercially. The Office of Internal Oversight Services noted that the Department of Peacekeeping Operations had taken the initiative to transfer to the Procurement Division, Office of Central Support Services, the responsibility for procuring goods and services that were not of a strictly military nature or pattern. The Department and the Procurement Division had agreed that the normal procedures for procurement through competitive bidding would apply for such requirements.

3. A draft of the present report was transmitted to the Department of Peacekeeping Operations and the Office of Programme Planning, Budget and Accounts for review. Their comments have been incorporated in the report, where appropriate, and are shown in italics.

II. Delegation of authority for issuing letters of assist

4. The Office of Internal Oversight Services found that the delegation of authority for procurement through letters of assist had not been updated since 1981. The existing delegation of authority, which dates from September 1981, authorizes the Director of the Field Operations Division, Office of General Services, in the Department of Administration and Management, to issue letters of assist. Although the Field Administration and Logistics Division was subsequently established within the Department of Peacekeeping Operations, there was no formal transfer of such authority from the former Department of Administration and Management to the Department of Peacekeeping Operations.

5. The Office of Internal Oversight Services further noted that section chiefs within the Field Administration and Logistics Division (now known as the Logistics Support Division) of the Department of Peacekeeping Operations had been signing letters of assist without having been delegated the proper authority by the Assistant

* It should be noted that, by its decision 57/573, the General Assembly adopted revised Financial Regulations, effective 1 January 2003 (see A/57/396). Those regulations and the related financial rules will be promulgated in a revised Secretary-General's bulletin early in 2003. The review by the Office of Internal Oversight Services of the proposed new financial rules indicated that the rules cited in the report remain substantially unchanged.

Secretary-General for Central Support Services and the Controller. This constituted a breach of financial rule 110.16, which states that contracts for the purchase, rental or sale of services, supplies, equipment or other requirements shall be entered into on behalf of the United Nations only by officials duly authorized for the purpose. In the opinion of the Office of Internal Oversight Services, clear delegation of authority needs to be established to ensure that only duly authorized officials enter into commitments through letters of assist.

III. Need to strengthen internal controls in the financial administration of letters of assist

6. The Department of Peacekeeping Operations Finance Management and Support Service obligated funds and processed the related payments, even though the relevant letters of assist had not been formalized. Of the 35 letters of assist reviewed by the Office of Internal Oversight Services, payments amounting to $11.6 million in respect of 18 cases had been made before the letters of assist were completed and/or countersigned by the providing Government. This practice was contrary to financial rule 110.22, which requires that payments be based on written contracts or purchase orders. *The Department of Peacekeeping Operations commented that, in most cases, the letters of assist had been signed by the United Nations and were only pending signature by the providing Governments. Furthermore, although letters of assist had not been concluded in these cases, the concerned missions had confirmed the delivery of the goods and services and the payments were processed only after verification of documentation supporting the deliveries.* In the opinion of the Office of Internal Oversight Services, however, the provisions of financial rule 110.22 constitute an internal control mechanism that needs to be complied with in order to minimize the risk of disputes. The Office of Internal Oversight Services is particularly concerned about the significant number of instances — about 50 per cent of the cases reviewed — in which the applicable financial rule was not complied with.

7. The audit also found that, in certain cases, Governments had provided services even before the Department could raise letters of assist in writing, or while the letter of assist was still a draft. In such cases, the Finance Management and Support Service treated the requests for reimbursement as "claims" and processed them without obtaining the necessary ex post facto clearance by the Headquarters Committee on Contracts. In 1995, the Finance Management and Support Service had requested the Controller's office to allow the Department of Peacekeeping Operations to process claims without a letter of assist because the Headquarters Committee on Contracts had refused to treat those claims as ex post facto cases and, consequently, had not made a recommendation. The Controller's office had acceded to the request, subject to certification by the Department's Director of the Field Administration and Logistics Division that the claims were being reimbursed at a reasonable cost. In October 2001, however, the Finance Management and Support Service began to certify such claims, noting that approval by the Director of the Field Administration and Logistics Division added "no real value to the process". The Controller's office took note of the practice, but did not formally authorize it.

8. In the opinion of the Office of Internal Oversight Services, such de facto devolution of authority to the Department of Peacekeeping Operations to make

payments without formal obligations represents a major deviation from the internal controls established by the Organization. Further, in the view of the Office of Internal Oversight Services, the Controller should authorize such payments, based on full justification provided in each case by the Department of Peacekeeping Operations.

IV. Guidelines for administering letters of assist

9. Although the report of the Secretary-General on the implementation of procurement reform (A/52/534) indicated that the Procurement Division would prepare revised guidelines for the administration of letters of assist by March 1998, those guidelines have not been completed. In view of the deficiencies noted during a follow-up audit of the implementation of procurement reform (A/55/746), the Office of Internal Oversight Services had recommended that the Procurement Division revise the Procurement Manual to specify the procedures for processing letters of assist, including the use of comparable cost data and proper justification of decisions. In February 2002, the Department of Management informed the Office of Internal Oversight Services that the revised Procurement Manual would specify the procedures for processing letters of assist, and that the Procurement Division had initiated consultations with the Department of Peacekeeping Operations to develop streamlined procedures that allow for the consideration of commercial aspects when ensuring that due process is followed when processing letters of assist.

10. The Department of Peacekeeping Operations had taken the initiative to prepare written operating procedures pertaining to letters of assist budgetary and payment processes. However, these procedures had not yet been approved or implemented. Furthermore, in view of their limited scope, the procedures do not address procurement-related issues pertaining to the use of letters of assist. Comprehensive guidelines are critical to ensuring consistency and economy in the use of letters of assist to procure goods and services for peacekeeping operations.

V. Need for proper justification of the use of letters of assist

11. The Department of Peacekeeping Operations had not drawn up a comprehensive list of requirements that could be considered to be of a strictly military nature and not available through commercial channels. Letters of assist requirements considered by the Department of Peacekeeping Operations to be of a strictly military nature often included goods and services required by troop-contributing Governments for their own contingents, such as transportation to and from the mission area, although some of those services were available commercially. *The Department of Peacekeeping Operations commented that it was a common practice for troop-contributing countries to deploy, rotate and/or repatriate their own troops. Such requests from troop-contributing countries were accepted as long as the cost thereof was less or equal to comparable proposals from commercial vendors. The Department also stated that it was exploring the possibility of including such requirements in the memorandums of understanding signed with the troop-contributing countries.* In the view of the Office of Internal Oversight Services, the decision to use letters of assist for such requirements should be based on appropriate cost-benefit analyses showing the advantages of the selected option.

12. The sample review by the Office of Internal Oversight Services of five cases of long-term air transportation procured through letters of assist indicated that all the cases were subsequently converted into commercial contracts. The Procurement Division routinely procured air transportation services through commercial channels, which raises questions about the appropriateness of using letters of assist for such requirements. During 2001 for example, the Procurement Division processed 533 requisitions for the provision of air transportation services at a cost of about $609 million. Procuring long-term air transportation services through letters of assist unduly restricted competition and undermined selection process transparency, raising concerns about the fairness and economy of such procurement. *The Department of Peacekeeping Operations clarified that it has been working with the Procurement Division to transfer responsibility for a number of procurement activities previously undertaken through letters of assist to the Procurement Division.* Transferring the responsibility for procuring goods and services that are not of a strictly military nature or pattern to the Procurement Division will facilitate wider participation of vendors and increase transparency, objectivity and economy in peacekeeping procurement.

13. The justification for using letters of assist was sometimes unclear. For example, in five cases, out of seven letters of assist processed by the Department of Peacekeeping Operations Medical Support Unit, the statements of award did not mention the conditions that had necessitated the use of letters of assist. During 2001, the Department issued 21 such letters of assist for the procurement of medical supplies, at a total cost of $764,592. In the view of the Office of Internal Oversight Services, since the Procurement Division processes a number of requisitions for medical supplies, it should also handle the procurement of medical supplies for peacekeeping missions by using generic specifications, unless a Government can justify the need for specialized products for its troops. In the latter case, it would be preferable to include such specialized requirements in the memorandum of understanding at the mission planning stage.

VI. Lack of competition in the award of letters of assist

14. During the period from 1999 to 2001, the Department of Peacekeeping Operations issued 331 letters of assist invoking financial rule 110.19 (h), that is, that "competitive bidding will not give satisfactory results". However, in most of the cases reviewed, the Office of Internal Oversight Services found that it would have been possible to obtain commercial bids. Although the letter of assist procedure was initially created to complement existing memorandums of understanding for requirements that were unforeseen during mission planning, it has evolved and become a standard mode of procurement for peacekeeping missions, which the Department justified by the inability to obtain competitive bids. This deviation from the original purpose of letters of assist has resulted in the lack of competition in procurement awards.

15. Generally, for long-term air transportation services (whether deemed to be of a strictly military nature or not), the Department of Peacekeeping Operations did not issue formal requests for proposal to Governments. Furthermore, the basis for inviting a particular Government to submit an offer was unclear. The Office of Internal Oversight Services noted that, in two instances, one Member State officially complained that it had not been invited by the Department to submit an offer. In

another case, the Office of Internal Oversight Services found that a letter of assist had been issued in the amount of $10.5 million for the provision of air transportation on the basis of a Member State's expression of interest. This letter of assist was subsequently cancelled and the required services were procured from a commercial source at the much lower cost of $6.5 million.

16. In all the cases described above, the Department of Peacekeeping Operations generally could not justify the selection of a specific Member State to submit proposals; nor could the Office of Internal Oversight Services elicit the reasons for restricting the invitations to only four Member States. The current practice of selecting Member States for the provision of goods and services through letters of assist lacks transparency and may result in uneconomical procurement. In the view of the Office of Internal Oversight Services, the selection of Member States to provide goods and services should be based on competitive offers. For that purpose, a roster of commodities to be procured through letters of assist needs to be established based on Governments' expressions of interest and their ability to provide the required goods and services.

VII. Recommendations

17. The Office of Internal Oversight Services made the following recommendations for improving the practices and procedures for procurement through letters of assist.

Recommendation 1

18. The Department of Peacekeeping Operations should obtain appropriate delegation of authority to procure goods and services for peacekeeping operations through letters of assist. This delegated authority should be limited to clearly identified goods and services of a strictly military nature, which cannot be procured commercially (AP2002/55/01).**

19. *The Department of Peacekeeping Operations commented that, in January 1997, it had reconfirmed its delegated authority with the Department of Management for the processing of letters of assist. However, the Department of Peacekeeping Operations will seek a revised delegation of authority from the Department of Management after the new guidelines for letters of assist are finalized.*

Recommendation 2

20. In order to adequately obligate funds and support payments, the Department of Peacekeeping Operations should ensure that letters of assist are expeditiously prepared and submitted for Government signature (AP2002/55/9/02).

21. *The Department of Peacekeeping Operations accepted the recommendation and stated that, since January 2002, it had taken steps to ensure that letters of assist were processed expeditiously.*

** The symbols in parentheses in this section refer to an internal code used by the Office of Internal Oversight Services for recording recommendations.

Recommendation 3

22. The Controller should review and authorize the payment of claims that are not supported by a duly signed letter of assist after obtaining the necessary justification for such claims from the Department of Peacekeeping Operations (AP2002/55/9/03).

23. *The Controller accepted the recommendation and stated that the Department of Peacekeeping Operations had been advised accordingly.*

Recommendation 4

24. The Department of Peacekeeping Operations, in consultation with the Procurement Division, should promulgate revised guidelines for letters of assist that adequately provide for: (a) meeting the prerequisites for their use; (b) procedures for selecting the providing Government; and (c) using cost-comparison methods (AP2002/55/9/04).

25. *The Department of Peacekeeping Operations accepted the recommendation.*

Recommendation 5

26. The Department of Peacekeeping Operations should ensure that the basis for the use of letters of assist in exceptional circumstances is accurately and comprehensively described in the statement of award (AP2002/55/9/05).

27. *The Department of Peacekeeping Operations concurred with the recommendation and stated that, since late 2001, justifications for exceptions were being provided in the statements of award.*

Recommendation 6

28. The Department of Peacekeeping Operations should discontinue the use of letters of assist for procuring medical supplies and transfer this responsibility to the Procurement Division, except for supplies that are required to be provided under memorandums of understanding (AP2002/55/9/06).

29. *The Department of Peacekeeping Operations accepted the recommendation.*

Recommendation 7

30. The Department of Peacekeeping Operations should, in cooperation with the Procurement Division, establish a roster of Governments willing to provide goods and services under letters of assist, and develop competitive procurement procedures for their award (AP2002/55/9/07).

31. *The Department of Peacekeeping Operations accepted the recommendation and stated that it would work closely with the Procurement Division in that regard.*

Recommendation 8

32. The Department of Peacekeeping Operations should ensure that the issuance of letters of assist is based on adequate cost comparisons and analysis of competitive offers obtained from the largest possible number of Member States (AP2002/55/9/08).

33. *The Department of Peacekeeping Operations accepted the recommendation, but commented that there were other factors that guided the selection of troop-contributing countries, some of which were beyond the control of the Organization.*

(*Signed*) Dileep **Nair**
Under-Secretary-General
for Internal Oversight Services